

2. ALIENATION, 1895–1922

At the end of the nineteenth century, Maori still retained essentially unrestricted access to kereru. But by 1922, they could not legally kill the bird. During the time between, the Crown gradually eroded Maori access to the bird. A combination of legislation and Government policy placed increasing restrictions on how and when Maori could kill kereru. Maori did not watch this process silently. An extensive record of letters, petitions, and parliamentary speeches demonstrated Maori concerns about the issue, and detailed their attempts to safeguard what they considered a right guaranteed by the Treaty of Waitangi.

In 1895, Parliament took its first steps toward a broader type of preservation of the wood pigeon – and also the first steps towards effectively restricting Maori use of the kereru. An amendment to the Animals Protection Act 1880 declared a closed season on native pigeons for 1896 and stipulated that every sixth year the season would again close. The amendment included an important exemption, however, providing that:

the Governor may, upon the recommendation of the Colonial Secretary, by notification in the *Gazette*, exclude the Urewera Country and other Native districts in the North and South Islands from the operation of this section.

The members of Parliament – both Maori and European – only briefly discussed the amendment during the 1895 session. The statutory closed season and the exemption provision have several important implications. The closed season illustrates the parliamentary power of the sporting interests and the growing strength of the preservationist lobby. The exemption provision demonstrates that the Government recognised that European recreational hunters and Maori living in native districts required different treatment.¹

Two important European interest groups – the sportsmen and the preservationists – supported the closed season, both motivated by concerns about disappearing native game. Some of the acclimatisation societies actively pushed for the measure, obviously as a method of ensuring a healthy – and huntable – pigeon population. The preservationists led the charge. In previous years, their concerns led to a number of amendments

¹ The Animals Protection Acts Amendment Act 1895

to the Animals Protection Act 1880 geared toward the preservation of birds. With the 1895 amendment, they achieved a temporary respite for the pigeon from the guns of hunters and the snares of Maori. Sir Walter Buller, the colony's pre-eminent ornithologist, commented:

the legislature is to be congratulated on having by special enactment extended a very necessary protection to our splendid wood-pigeon by making the whole of the year 1896 a close season. It is to be hoped that the Government will not make too free a use of its direction under the Act as to releasing the restriction in native districts.

Buller's comments indicated the tension between Maori and Pakeha over the management of the pigeon. Europeans viewed the bird as a sporting outlet or as an aesthetic attraction in need of protection. Maori viewed the same bird as a food source. The disparate perspectives on the kereru created conflict over its management.²

The exemption to the closed season for Urewera and other native districts demonstrated that the Crown recognised the need for different access rights for Maori and Pakeha. The specific mention of Urewera was not coincidental. In the mid-1890s, Tuhoe and the Crown contested for the control of Urewera. The closed season amendment came up in Parliament just as Tuhoe representatives and Crown agents negotiated over the Urewera District Native Reserve Act (eventually passed in 1896). An 1856 letter from the Minister of Native Affairs, Richard Seddon, to the Tuhoe chiefs confirmed the importance of native game to the tangata whenua of the region: 'With regard to your request that your forests and birds should be suitably protected, it gives me much pleasure to assent to this request of yours.' The specific exemption for the Urewera district included in the Animals Protection Act reflected the broader concerns over the control of the area.³

As the 1896 closed season approached, the Colonial Secretary's office – which administered the Animals Protection Act – asked the Maori members in the House of Representatives and the Legislative Council to recommend places in their districts suitable for exemption from the closed season. Only one of the responses survives in the files of the Colonial Secretary's office: that of Ropata Wahawaha to Richard Seddon, dated 11 April 1896. Wahawaha had attended a hui in the East Coast, and he relayed the decision of the people who had participated in the meeting. He outlined several areas in the East Coast district that should receive the

² McDowall, *Gamekeepers for the Nation*, p 65; quote from Walter L Buller, 'Notes on New Zealand Ornithology, with an Exhibition of Specimens', TNZI, vol 28, 1895, p 336

³ R J Seddon to 'the Persons who . . . Represent Tuhoe', 25 September 1895, second schedule to the Urewera District Native Reserve Act 1896

exemption and proposed a ban on all shooting in some areas – reserves for the birds. Wahawaha also commented on the political factors that would determine the success of the reserve–exemption plan. ‘There are three parties in this reserve (for pigeons),’ he explained to Seddon:

Maoris, Europeans and the Government. If the Government are agreeable to have the bird catching places that they have that are written, reserved, it will be well. The birds will not be preserved if they allow the Europeans to fell the bush, the birds will disappear.

In addition, Wahawaha discussed the seasons that different birds fed on berries. Although he did not explicitly address the issue, he referred to the ongoing controversy in Parliament over the season dates for hunting kereru and other native game. No evidence exists in the files at National Archives to explain what the Colonial Secretary’s office decided to do with Wahawaha’s recommendations, or any others requested by other Maori members of Parliament. Despite the provision in the law and the letter from Wahawaha, the Colonial Secretary’s office did not exempt any Maori districts from the closed season of 1896. Anyone – Maori or European – who shot a native pigeon broke the law.⁴

The decision to apply the protection provisions to Maori brought new considerations to the Government’s policy toward Maori and kereru. For the first time, the Government needed to ensure that Maori both knew of and comprehended the Animals Protection Act 1880. ‘With regard to the close season for pigeons it would be as well to post a notice in the *Native Gazette* warning the Natives against killing pigeons or I am afraid the slaughter . . . will be as great as ever,’ predicted one correspondent to the Colonial Secretary.⁵ In 1896, the Colonial Secretary’s office sent a memo to the Government printer, questioning whether the printers had translated the Animals Protection Amendment Act of 1895 into Maori. The Colonial Secretary’s office ordered a number of copies of a translation of section 7 of the Act – the section that concerned the closed season and the Urewera exemption. They then sent copies of the translated version from *Kahiti*, the Maori-language *Gazette*, to the acclimatisation societies with the note: ‘it was thought that Rangers who have Natives in their districts might find it useful to have a few copies’. This brief memo provides some of the earliest concrete evidence of the determination to make the restrictions on kereru hunting apply to Maori.⁶

4 Ropata Wahawaha to Seddon, 11 April 1896, IA1 1898/2874, NA (DB, pp 10–18); draft of Colonial Secretary to Maori members of the House and Legislative Council, 22 February 1896, IA1 1898/2874, NA. The Government did initiate action to set aside some of the areas outlined by Wahawaha as native game sanctuaries. IA1 1898/2874 contains maps of the proposed sanctuary, and the Legislative Council passed a resolution in favor of the move. The House discussed the matter, too, but no mention of a sanctuary for native game in the East Coast area appears in the *New Zealand Gazette*. I did not carry out an extensive search on this issue, however: NZPD, 1898, vol 104, pp 415, 434.

5 Caleb Smith to Colonial Secretary, 24 March 1896, IA1 1899/898, NA

6 Memo, Colonial Secretary’s office, 25 February 1896, ‘The Government Printer’, IA 1 1898/2874, NA; the Animals Protection Acts Amendment Act 1895; memo, Colonial Secretary’s office, R H Govett, ‘Memo for Secretaries of Acclimatisation Societies’, 31 March 1896, IA1 1896/898, NA

Soon after the circulation of the translated version of the law, the Government received a petition asking for the exemption provided for in the 1895 amendment. Te Hata Te Rakatumaro wrote to the Minister for Native Affairs requesting that ‘our lands be exempted from the new notification of the Government in reference to the birds and my hapus will not agree to this notification being operative in our district’. Once again, no evidence exists to reveal the response of the Colonial Secretary’s office, but the *Gazette* records no exemptions; Te Hata Te Rakatumaro and his hapu did not get their wish. However, the Government possessed little ability to enforce the decision, and Te Rakatumaro would have found little to stop him if he chose to ignore the directive. This reality affects any discussion on pigeon protection and will be analysed in greater detail in the next chapter.⁷

The growing conservation movement continued to press for the protection of the wood pigeon and other native birds. Concerns about the status of the wood pigeon population had developed in earnest. Noted scientist Thomas Kirk stated in 1895:

It is almost superfluous to mention the increasing scarcity of the beautiful native pigeon (*Carpophaga novae-zealandiae*, Gml). Notwithstanding its former abundance throughout the colony, there is scarcely a single district in which it is to be found in large numbers at the present time. Although it has not escaped the ravages of rats and wild cats, the injury effected by these agencies is but trivial when compared with the destruction wrought by settlers, who have shot it during all seasons, on account of its value for food.⁸

HGuthrie Smith, one of the leaders of the nascent conservation movement, made similar observations and lamented the fate of the bird: ‘They are easy to shoot, and good to eat; but it seems a pity that these confiding birds should, from these very qualities, be unfit to survive.’ Such observations spurred calls for the protection of the wood pigeon and other birds classified as native game.⁹

The Government began to use the Animals Protection Act 1880 as a tool to protect the kereru. The closed season served as an obvious conservation measure. The 1895 amendment had included an additional provision allowing for a ban on the sale of imported and native game in certain situations, and this provision acted as a protective measure. For example, the Nelson Acclimatisation Society requested in 1899 ‘that the sale of the

⁷ Te Hata Te Rakatumaro to Minister for Native Affairs, 27 May 1896, IA1 1898/2874, NA

⁸ T Kirk, ‘The Displacement of Species in New Zealand’, TNZI, vol 28, 1895, p 9

⁹ H Guthrie-Smith, ‘Bird-life on a Run’, TNZI, vol 28, 1895, p 374

Native Pigeon be prohibited on the ground that they are not sufficiently numerous to warrant the sale thereof'. The Colonial Secretary's office agreed to the request and issued similar proclamations for other areas as well. Even the definition of indigenous birds as 'native game' served as a conservation measure. The designation allowed the Government to prescribe seasons and hunting methods, and even close the season for long periods of time, as it had done with the kereru. In 1896, the Government added a number of important birds to the native game list, including the korimako (bellbird), kokako (blue-wattled crow), kakapo, kiwi, tieke (saddleback), and hihi (stitchbird).¹⁰

The discussion in Parliament over the next several years revealed dissatisfaction with the provisions covering pigeon hunting. Some legislators wanted tighter restrictions and more closed seasons. In 1896, John Patrick O'Regan proposed yet another amendment to the Animals Protection Act 1880. He worried that the Act did not offer enough protection to the bird because 'sportsmen who go in quest of other game do not refrain from shooting pigeons'.¹¹ He suggested a closed season be held every third year, instead of every sixth. Parliament took no action on his suggestion. Two years later, William Campbell Walker called for the same amendment. He stated his concern over 'the extraordinary way in which [wood pigeons] had been lessening in number. He trusted that it would be looked upon as simply a fair means of preserving one of the finest of our native birds.' Once again, the proposed amendment failed. Still, such comments indicate a shift from the view of the kereru as a game bird shot for sport to a native treasure deserving protection for its aesthetic appeal.¹²

The trend towards the protection of the kereru and the proposed amendments drew another round of commentary from the Maori members of Parliament. Hone Heke, the representative for the northern Maori district, made a bold statement in 1899 about the rights of Maori to take kereru:

With reference to native birds – take pigeons for instance – I object to any legislation that tends to take away any of the native rights to shoot or kill birds – pigeons, or kakas, or any native birds, in season. . . . I think the restriction imposed upon native birds ought to be removed, as far as the Natives are concerned who have Native properties belonging to themselves. It can fairly be applied to all bush country owned by the Crown.

¹⁰ The Animals Protection Act Amendment Act 1895; honorary secretary, Nelson Acclimatisation Society, to Colonial Secretary, 15 March 1899, IA1 1899/1322, NA; honorary secretary, Canterbury Acclimatisation Society, to Colonial Secretary's office, 29 June 1895, IA1 1897/1167, NA; *New Zealand Gazette*, 1896, vol 1, p 475

¹¹ NZPD, 1896, vol 92, p 288

¹² NZPD, 1898, vol 101, p 199

Heke recognised that the trend towards conservation meant conflict with the way Maori used native birds. Heke repeated an argument that Maori had made consistently since the 1879 Maori Parliament – that the Government should not be able to dictate bird protection or game management on Maori land. This position held interesting implications. In some areas, particularly where larger, pre-1865 purchases had taken place, the policy suggested by Heke would have excluded many Maori from access to kereru. Large portions of the South Island provide one example of such a region.¹³

The dispute over the correct season to hunt native pigeons also surfaced again. For years, the office of the Colonial Secretary had set the season on native game. James Carroll, the Colonial Secretary at the time, faced a tremendous amount of pressure to open the season early to accommodate the Easter holidays. Such early dates, argued Carroll, meant sportsmen killed the birds before they reached maturity. He adamantly argued for a set season that opened in May and closed in July, to relieve the pressure on the Colonial Secretary. Hone Heke and the other Maori representatives argued just as adamantly against the proposed seasons. They supported the idea of a closed season at certain times:

Referring to the native game, it has always been the custom of the Natives, for instance, to make reserves, or *rahuias*, on all their bird-areas from the very early years, and even up to the present time, and it is to their interest to create close seasons.

But Heke and his supporters wanted the dates to align with the Maori season for taking birds. ‘I will take this season, for instance,’ explained Heke:

The pigeons in the North of Auckland this season were very late, and the proper season for killing pigeons this year up there would run to the middle or end of August. The usual proper season for killing pigeons is from the end of May or June. But there have been several seasons lately where the birds have been very late in getting into condition, and I think the close period ought to be extended to about the middle of August.

Tame Parata, from the southern Maori district, argued for flexible seasons and a system more like that used by Maori, who relied on *tohunga* to set each season, based on the condition of the birds and the ripening of the berries. The conflict over the season to hunt kereru developed because

¹³ NZPD, 1899, vol 110, p 407

the bird had different uses for different groups. Maori wanted a fat, easily killed bird to put on their table, whereas hunters out for sport found no pleasure in shooting a bird so fat that it could barely fly away.¹⁴

Heke also spoke out against the proposal to increase the number of closed seasons. ‘I do not think that would satisfy the people I represent,’ he explained. The birds suffered because settlers cut down the bush, not because of hunting, and, ‘That being the case, I do not think there is any reason at all for a close season.’ In the debate over seasons, Heke stated that he would oppose any policy that restricted Maori access to kereru. He continued that stance with regard to the proposal to increase the number of closed seasons.¹⁵

Despite Heke’s opposition, Parliament amended the Animals Protection Act to include the proposed changes. The 1900 amendment opened the hunting season for both native and imported game on the first day of May and closed it on the last day of July; the seasons for the provincial district of Otago opened and closed one month earlier. The Act did include provision for the Governor to alter the season upon the request of the acclimatisation societies, but it did not specify that the Governor could extend the season at the request of iwi or hapu. The amendment also closed the 1901 season, and every third season thereafter, for the hunting of pigeons, pukeko, and kaka. The possibility of exemption for Urewera and other native districts remained in force.¹⁶

In 1901 – the next statutory closed season – the Government used the exemption provision for the first time. As the law required, no pigeons, kaka, or pukeko could be shot, and the Colonial Secretary’s office posted signs in English and Maori to inform the public (see app 1). The use of Maori language posters demonstrated the intent to enforce the act in Maori districts. However, the Colonial Secretary also posted a note in the *Gazette* that proclaimed ‘any Maori or half-caste Maori’ could kill pigeons in certain, prescribed areas. The notification listed a number of areas, mostly in the Taupo and Rotorua regions. Despite its specific mention in the Animals Protection Act, Urewera did not receive an exemption. No correspondence remains in the files of the Colonial Secretary’s office to provide further information on the exemptions.¹⁷

Another interesting omission in the 1901 exemptions involved correspondence from noted Ngati Tuwharetoa chief Te Heuheu Tukino. In 1901, he wrote to James Carroll, then Native Minister, requesting an open season in the Tongariro and Matatua districts to kill pigeons ‘for the tribes

¹⁴ Heke quotes from NZPD, 1899, vol 110, p 407; NZPD, 1900, vol 113, p 36–37

¹⁵ NZPD, 1900, vol 113, pp 32–33

¹⁶ The Animals Protection Act Amendment Act 1895

¹⁷ Closed season notices in IA 1 1901/1583, NA (DB, pp 19–20; *New Zealand Gazette*, 1901, pp 1068

who will assemble at Rotorua on the arrival of the King's son, for birds are very plentiful indeed this year, berries being very abundant and the birds very fat'. The files of the Colonial Secretary's office include other correspondence that helps trace Te Heuheu's petition. James Carroll received a memo informing him that the Cabinet had considered the issue and decided against the request. Carroll then sent a note to Colonial Secretary Joseph G Ward asking him to reconsider the decision. No further correspondence exists. The exemptions posted in the *Gazette* did not include Tongariro and Matatua – the areas mentioned by Te Heuheu. However, several of the listed areas are nearby, and are also close to Rotorua.¹⁸

With more closed seasons, the conflict between Maori and Pakeha over access to kereru intensified. Throughout the first decade of the twentieth century, legislators continued to debate amendments to the Animals Protection Act. The discussions over clauses that affected Maori followed predictable patterns and the controversy over seasons continued to brew. A new dispute developed, as well, over the right to keep quantities of native game as preserved food. The conflict between Maori and the growing conservation movement swirled beneath many of these issues.

The controversy over the correct season to hunt pigeons proved particularly persistent. Hone Heke spoke for the Maori position on the issue in 1900. The issue arose again in 1903, 1907, 1908, and 1910. Heke routinely led the fight against prescribed, early seasons, but without success. Heke's arguments differed little from those quoted above; he repeatedly explained the Maori system of rahui, pointed out years when kereru came into condition late or early, and demanded flexible seasons. Other Maori members, such as Apirana Ngata and Tame Parata, continued to support Heke's position. Maori not involved in the political process commented on the issue as well. In 1905, Taiaha Paurini and 137 others sent a letter to Parliament explaining their opinion on the correct season to hunt native birds:

Your petitioners hereby pray that we be left to manage our Maori birds upon our own lands; we to fix the times at which they may properly be killed. For the reason that the law administering birds is wrong; when the birds are fat they are protected, and when they have become thin their killing is thrown open.

From former times down the Maoris have been a people expert in administering their bird-forests, and all other food workings; for that

¹⁸ Te Heuheu Tukino to the Hon James Carroll, 1 April 1901, Hugh Pollen(?) to James Carroll, 18 April 1901, J Carroll to J.G. Ward, 25 April 1901, all in IA 1 1901/1583, NA.

reason an abundant supply prevailed; and now since the European Law has come in to protect them our birds are disappearing.

Another prayer of your petitioners is that we may have the power to prevent Europeans from wrongfully coming to kill our birds, We are not permitted to go to their lands . . . to kill birds.

Like their representatives in Parliament, Paurini and his supporters highlighted the traditional success of Maori birding techniques and the apparent failure of the European system.¹⁹

A pair of additional conflicts paralleled the controversy over seasons. Both issues involved restrictions on Maori traditional use of kereru. A proposed consolidation of the Animals Protection Act in 1907 included a clause that prohibited the use of snares in the taking of native birds. Hone Heke once again led the Maori members in opposition to the provision:

Before the gun came into the country the Natives caught pigeons and other birds by snaring them, not for the purposes of sport, but for food. And here is an attempt to prevent the Natives from securing these birds . . . The Natives prefer rather to snare their birds than to use the gun, because the gun scares the birds away, and they do not then get as many birds as they would like. I hope the Minister will take this point into consideration, and not prevent the natives . . . from using their old methods of catching them for food.

The Animals Protection Act had placed restrictions on snaring pigeons once before – in 1865, before Maori members had joined Parliament. That clause had only remained on the books for two years. The new amendment threatened to significantly limit Maori use of kereru by restricting the way that they took the bird. As in the fight over seasons, Heke failed to convince the other members of Parliament, and the 1907 Act included the restrictions on snaring.²⁰

The right to keep native game as preserved food became a bone of contention as well. Since the 1880s, both conservationists and sportsmen had fought to extinguish the market for selling native game. Professional hunters looking to earn money by selling pigeons and other native game decimated bird populations. The Animals Protection Act already contained a number of provisos aimed at restricting the sale of imported and native game. By prohibiting hunters from freezing or preserving their prey and selling it later, legislators hoped to clamp down on the market still further.

¹⁹ NZPD, 1903, vol 26, p 72; NZPD, 1907, vol 142, p 788; NZPD, 1908, vol 144, p 288; NZPD, 1910, vol 151, p 207; Taihia Paurini and others to Speaker, 22 July 1905, IA1 1905/2536, NA (DB, p 21)

²⁰ NZPD, 1907, vol 142, p 786; the Animals Protection Act 1907

Parliament passed just such an amendment in 1907, and reinforced it in 1908. Maori, however, relied on preserved birds – especially kereru – as a vital food source. They fought to retain the right to keep preserved food, or huahua. Te Rangihiroa, Hone Heke's successor as the representative from the northern Maori district, continued Heke's fight against the restrictions on Maori access to kereru. He argued that many Maori depended on huahua for food, and that the latest amendment would cause great hardship, especially in the remote districts far from European communities and alternative food supplies. Te Rangihiroa offered an impassioned and important speech in defence of the traditional Maori use of kereru:

I wish to point out here the injustice that is being done to the Native race. That race in this country in the old days lived to a very large extent on the game provided by the country, and they killed game entirely for food-supply purposes, preserving it to last them to the next season . . . Now, this custom has been obtained amongst the Maoris from ancient times right down to the present . . . [Native pigeons] were cooked and preserved in their fat, put away in air-sealed vessels, and kept as a source of food-supply. It was their right to do so; but under the Act it is stated that anybody found with native game in their possession after a period of seven days after the close of the season is liable to punishment. So that this Act, and also the proposed amendment, is taking away one of the rights and privileges of the Native race.

According to Te Rangihiroa, the newest threat simply followed an old pattern:

We have seen our privileges gradually taken away, and now under the original Act another of our privileges is being taken away. I strongly protest on behalf of the Maori people that anything should be done under this Bill to prevent the Maoris from preserving native game for food-supplies.²¹

Like his predecessor, Hone Heke, Te Rangihiroa viewed Maori access to kereru as a right – a right threatened by the Crown. But Te Rangihiroa proved more successful than had Heke. Maori found an ally on the issue in the Minister of Internal Affairs, David Buddo. Buddo introduced an amendment to the legislation in 1910 that protected the right of Maori to

²¹ NZPD, 1910, vol 151, pp 257–258; the Animals Protection Act 1907; the Animals Protection Act 1908

Alienation, 1895–1922

1895—Animals Protection Act Amendment Act 1895

Governor may prohibit sale of native game
Season on kereru closed every six years
Governor may exempt Urewera and other native districts

1900—Animals Protection Act Amendment Act 1900

Season on kereru May–July; April–June in Otago
Season on kereru closed every three years
Governor may exempt Urewera and other native districts

1903—Animals Protection Amendment Act 1903

Season on kereru May–July

1907—Animals Protection Act 1907

No native game can be trapped or snared
No native game may be preserved after end of season

1910—Animals Protection Amendment Act 1910

No native game may be preserved after end of season
Maori retain right to hold preserved game known as *huahua*
All native birds protected unless otherwise specified

1922—Animals Protection and Game Act 1921–22

Kereru absolutely protected

Table 2: Status of the kereru, 1895–1922

keep preserved food. The Animals Protection Act 1910 declared that the ban on preserved food would not affect ‘the right of the Natives to hold preserved game known as *huahua*’. Table 2 details the clauses of the constantly changing animals protection legislation that dealt with kereru.²²

Three of the issues that drew comment from Maori members – the fight over seasons, taking methods, and preservation – all reflected a dichotomy between Maori and European ways of looking at kereru. Acclimatisation societies and their members looked at the pigeon as one of the few native birds suitable for recreational hunting. Since its inception in 1861, animals protection legislation had focused on sport hunting. But Maori looked at the kereru as a food source. The split over the correct season, for example, developed because Maori wanted fat birds but sport hunters wanted fast ones. Similarly, snaring held no sporting value, but as a method of securing food, the technique had worked for generations. Maori representatives in Parliament clearly recognised this dichotomy, and grew frustrated as sport routinely took precedence over their people’s subsistence. Te Rangihiroa made a particularly telling speech in 1910:

There is no greater menace to the animal-life of this country . . . than the so-called sporting proclivities of the white man . . . These sporting proclivities of the Englishman are so excessive that when he wants to do anything of a special nature that will give him special pleasure he will say

²² David Buddo, NZPD, 1910, vol 152, p 263; the Animals Protection Act 1910

to his friend, 'Let us go out and kill something.' The attitude taken up by the Maori race in this country in that respect was totally different. The Maori never killed for sport; he killed for the pot straight out, and he never took more than he could use. All the birds the Maori killed or snared he was able to make use of by preserving, and there was not waste.²³

Of course, Te Rangihiroa exaggerated. Not all Europeans looked at the pigeon solely as a sport – many settlers in the bush districts relied on it for food as well. Their representatives also spoke out in Parliament against the growing restrictions on pigeon hunting. For example, Alexander Scott Malcolm, representing Clutha, explained that 'it was only fair to remember the occasional dependence of bush settlers upon the birds for food'. Bush settlers, like Maori, viewed the kereru as a food source rather than as a sporting target, and they also opposed the increasing restrictions on pigeon hunting.²⁴

The growing rift between Maori and the conservationists complicated the issue still further. The conservationists believed that no one should have the right to kill native birds, either for sport or for food, and the conservation lobby continued to grow in strength during the early twentieth century. The 1907 version of the Animals Protection Act included strong provisions on the protection of native birds. The Act gave the Governor the ability to declare any native bird 'absolutely protected', and included the most extensive list of protected birds to that date. In addition, the 1907 Act gave statutory recognition to the concept of the wildlife sanctuary – a place where no game could be killed. The Animals Protection Act Amendment Act 1910 went still farther toward conservation. It created a presumption of protection and declared all native birds protected, unless otherwise specified. The Act protected the kereru, for example, except when the Governor declared it native game and fit for hunting. All the versions of the Animals Protection Act retained the statutory closed seasons and the potential exemptions for native districts.²⁵

The conservationists turned their eyes to the protection of kereru in particular. Henry Ell, a representative in Parliament from Christchurch South and one of New Zealand's foremost conservationists, led the charge. In 1906, Ell wrote to Colonial Secretary Albert Pitt requesting permanent protection for wood pigeons in Canterbury and other settled districts:

²³ NZPD, 1910, vol 151, p 207; Hone Heke, NZPD, 1903, vol 126, p 476–477; NZPD, 1908, vol 145, pp 61–66

²⁴ NZPD, 1098, vol 145, p 64

²⁵ The Animals Protection Act 1907; Gallbreath, *Working for Wildlife*, p 48; the Animals Protection Act Amendment Act 1910

The birds are easily shot and are not capable of taking care of themselves like other birds which are much stronger on the wing . . . I think the time has arrived when certain districts in the colony should be selected and this bird in those districts should be absolutely protected. I know of course that in some parts of the North Island where the Maoris are very numerous this is difficult. However, there are parts where there are very few Maoris . . .²⁶

Ell tried again a few years later, using even stronger words. He approached the Minister of Internal Affairs with his fears, the Colonial Secretary's office having been transformed into the Department of Internal Affairs when New Zealand received dominion status in 1907:

Unless something is done and that at once to stop the willful destruction of our Native birds, particularly by the Maoris, it is only a matter of a few years when many of the varieties will be absolutely exterminated on the Mainland. I think the time has come when the potting of tuis, pigeons and kiwis should be absolutely prohibited.

The fact that Maori relied on the birds for food mattered little to Ell – he thought that Maori should look elsewhere for food: 'there is abundance of food in this Country now, therefore there is absolutely no excuse for killing Native birds which are becoming very rare for food'. In 1908, members of Parliament conducted a long discussion on pigeon shooting, prompted by a report that 5000 birds were shipped by rail from Ohakune to Wellington for sale on the market. During the debate, the entire range of opinion on the issue emerged. Some members called for the absolute protection of the pigeon, or more frequent closed seasons, or a prohibition on the sale of the bird. Others pointed out that both Maori and Europeans living in bush districts relied on the birds for food. The members reached no consensus, but the issue of pigeon protection had received extensive publicity.²⁷

The conflict between Maori and the conservationists grew more heated. During the first decade of the twentieth century, Maori representatives in Parliament squared off against Henry Ell and the other leaders of the conservation movement. Europeans pleaded with Maori to stop killing birds. 'I appeal to the Maoris that an effort should be made to protect these native birds from extinction, which will surely follow such wholesale destruction,' stated Ell during the debates over the 1910 amendments. Ell

²⁶ H G Ell to Pitt, 24 April 1906, IA1 1906/2447, NA

²⁷ H G Ell to Dr Findlay, 15 February 1908, IA1 1908/383, NA (DB, p 22); NZPD, 1908, vol 145, pp 61–66

assured the Maori members, however, that ‘We are not interfering by this Bill with the Maoris in the districts where they require certain native birds, which are plentiful, for food’. After all, explained Ell, the provisions for exempting Urewera and other native districts remained on the books.²⁸

Maori invariably responded to requests such as Ell’s with a similar plea, for the Europeans to stop cutting down the bush. A heated exchange between Hone Heke and Thomas McKenzie (later the Prime Minister and also a founding member and president of New Zealand’s foremost conservation society) over the 1907 amendments illustrated the growing rift between the two groups:

McKenzie: What is desired to enlist is the sympathy of the Natives of this country. They ought to unite with the Europeans in protecting that which really is so delightful and beautiful, and makes so much towards the interesting fauna of this country. I think the Natives ought to support us in all our efforts.

Heke: What about the freeholders, who want to get the land in order to knock the bush down?

McKenzie: I thought the honourable member was one who would endeavour to protect the birds of this beautiful country – his native land – but from his interjection one would suppose that we had not that sympathy. . . . I say that, notwithstanding the Treaty of Waitangi, we have reached that stage in this country that if the Natives will not assist in protecting that which is so beautiful, then the laws of this country will have to do so.

Heke: The Natives are the only ones who do it.

McKenzie: The Natives in some parts protect the birds, but in other parts they destroy them. I think that the people of the country, and also those who are represented by the Native members, would agree to what is being done by Parliament.

Heke: What is the area of bush that has been knocked down by the settlers?

McKenzie: We will not discuss the area that has been knocked down . . .

Similar exchanges occurred in other debates over the protection of animals and the preservation of bush. The perspectives – and evident opposition – displayed by Heke and McKenzie demonstrated the disparate views held by Maori and the conservationists. Both groups argued for the

²⁸ NZPD, 1910, vol 151, p 262

protection of pigeons – one through a ban on hunting and the other through the protection of its habitat. These opposing perspectives represent the early stages of today’s conflict between environmentalists and Maori.²⁹

Maori found themselves pinched from all sides. Recreational hunters thought that kereru should be used not for food but for sport. And, while agreeing that the birds should not be used for food, the conservationists went further, believing that the kereru should receive absolute protection. Despite the best attempts of Maori leaders like Hone Heke and Apirana Ngata, Parliament continued to pass legislation restricting access to a bird that Maori viewed as a vital source of food. But Parliament did not act on the Maori proposals to stop the destruction of the bird’s dwindling habitat.

A few European members of Parliament did, however, support the Maori position. Some agreed with Maori that the root of the problem was in fact the bush clearing, not the shooting for sport or food. John Stevens, a representative from Manawatu, related an encounter with a group of Maori who wanted to shoot kereru for a hui during a closed season:

He pointed out to the Natives that it was a closed season, as the Europeans wished to preserve the birds. The Maoris replied, ‘But do you preserve the birds? Look at the thousands of acres of forest that have been cut down, thus depriving the pigeons of cover and sustenance, and instead of our having the benefits of eating the birds they died of starvation.’

Stevens concluded that ‘there was a great deal of truth in this.’

Some members did not think it right to deprive Maori of such an important food source, while still other members doubted whether the Government retained the authority to prohibit Maori from taking kereru on their own land.³⁰

The Animals Protection Act went through countless amendments, but the clause requiring a closed season every three years remained untouched. So, too, did the possibility for Maori to receive an exemption from the clause. The law prescribed the 1904 and 1907 seasons as closed. But, as during the first closed season in 1896, the Government refused to grant an exemption. Although no requests are on file for the 1904 season, the National Archives holds quite a few petitions regarding the 1907 season. Mamiaute Te Piripi and six others, for example, wrote:

29 NZPD, 1907, vol 142, p 790

30 NZPD, 1908, vol 145, pp 63, 61–66; NZPD, 1903, vol 126, p 71; William Thomas Jennings, NZPD, 1908, vol 144, p 228

We beg you to permit us to shoot birds this year . . . We think upon the law, and upon our bodies as separate individuals that (the season) be open to us alone – the Maoris – and not to Europeans . . . It is for food too that the work would be good.

Once again, no trail exists in the records of the Department of Internal Affairs to determine the reasons behind the decision not to grant the petitions.³¹

The situation changed in 1910 – the next closed season. Petitions flowed into the Department of Internal Affairs, and this time the Government granted an exemption. Perhaps the difference lay in the involvement of two of the most important Maori statesmen of the time. Apirana Ngata received a letter written on behalf of Urewera Maori requesting that 1910 remain an open season for kereru. A blight had struck the potato crops of the region, threatening Maori residents with a significant shortfall in food. Ngata in turn recommended the action to the Minister of Internal Affairs ‘in the interests of the Native inhabitants of the district, who will have a hard winter before them’, and Te Heuheu Tukino also communicated a similar request to the Minister. The potato blight had infected the Taupo region as well, while kereru remained plentiful. Te Heuheu’s petition had been signed by 124 persons, and in addition the Department of Internal Affairs received other petitions. For only the second time, the department exempted the Urewera and Taupo districts from the statutory closed season.³²

While they discussed amendments and exemptions, both Maori and European representatives danced around the most important issue: whether the Government had the right to restrict Maori access to kereru. Maori claimed – especially after 1910 – that the Treaty of Waitangi guaranteed their right to take the bird. One early comment on the issue came from John Solomon Pohio in 1901, who wrote to Colonial Secretary Joseph G Ward with a question about Maori rights to native game:

Would you be kind enough to let me know if native games comes under the same act as the native fishery under the Treaty of Waitangi, that native or aboriginal of New Zealand has the right to catch or kill fish or native games it seems hard for natives to watch their games flying over head and to be [prosecuted] for killing for food in times of need or want.³³

³¹ Mamiaute Te Piripi and others to Jas Carroll, 4 May 1907, IA1 1907/712, NA (DB, pp 23–24); IA1 1907/712, NA, holds a number of petitions to open the 1907 season

³² A U Braut to Apirana Ngata, 24 March 1910, IA1 1910/887, NA (DB, p 25); Te Heuheu Tukino and others to Minister for Internal Affairs, April 1910, IA1 1910/1147, NA (DB, pp 26–27); *New Zealand Gazette*, 1910, pp 1222, 1418

³³ John Solomon Pohio to Sir Joseph G Ward, 8 July 1901, IA1 1901/2150, NA

A memo from the Colonial Secretary's office directed: 'Reply that native game cannot be taken or killed by any person except as provided by "The Animals Protection Act 1880"'. This response foreshadowed the policy employed by the Government over the next decade. Henare Kaihau, the representative for Western Maori, stated his concern about Treaty rights more forcefully in 1910, during the debates over the right to preserve native game:

The Maori people . . . are under the impression that they still possess the right conferred by – and held by them since – the Treaty of Waitangi to kill and take, for the purposes of food, native game and fish throughout the Dominion; but this Bills seems to put an end to that. I am very much astonished indeed at Parliament acting in this way.

Kaihau's comment is not the first statement about Maori 'rights.' Many times since the 1880s, during the discussions in Parliament and in correspondence with the Government, Maori claimed their 'right' to kill kereru. But Kaihau's comment is the most direct statement regarding the Treaty of Waitangi.³⁴

Europeans also recognised the Treaty issues lurking behind pigeon conservation. In 1908, Bay of Plenty representative William Herbert Herries commented that, in his opinion, 'It was . . . doubtful whether the Maoris could be prevented from shooting the pigeon for food, close season or not, as in the Treaty of Waitangi they were guaranteed that right'. Most of the legislators in Parliament, however, did not agree with this view. The representatives that lobbied for bird conservation over the use of native game for food obviously did not accept claims that the Treaty protected Maori access to kereru and other native birds.³⁵

During the first decade of the twentieth century, Treaty issues played little role in the Crown's management of kereru. Led by the conservationists, the Government used legislation to limit access to pigeons – by both Maori and Europeans. By the end of the decade, however, the legislation necessary to protect the pigeon was in place. Faced with tightening restrictions on their access to a traditional food supply, Maori expressed their belief in a Treaty-guaranteed right to take the kereru and other native game. The Crown, through the Department of Internal Affairs, continued to restrict Maori taking of kereru. As the Government moved towards a policy of increased protection, it needed a final resolution of Treaty issues.

³⁴ NZPD, 1910, vol 151, pp 260–261; see, for example, Hone Heke's 1899 comments, quoted above, NZPD 1899, vol 110, p 407, and the comments of Thomas Mason Wilford, NZPD, 1907, vol 142, p 789

³⁵ NZPD, 1908, vol 145, p 66

Maori arguments for Treaty-guaranteed rights to kereru and the enforcement of the Animals Protection Act found a practical test in 1908. Hapareta Rore Pukekohatu had been shooting native ducks at the Mataora Lagoon in the Wairau River – an area set aside as a reserve under the provisions of the Animals Protection Act – when rangers from the local acclimatisation society tried to prevent him shooting and attempted to expel him from the reserve. Pukekohatu wrote to Native Minister James Carroll giving his account of the events:

I told him that it had not been put into the Maori *Kahuti* [sic] and the gazette did not say ‘and Maoris also,’ that the only persons they could expel were Europeans; and I also informed them that I was entitled to kill the birds and eels under the Treaty of Waitangi . . . if, on being summoned [by the acclimatisation society magistrate], I am defeated, that will be the end of our having any title to our indigenous birds and fishes.

In a scribbled memo attached to the correspondence, Internal Affairs agent H Pollen delineated a policy on the issue with significant implications for Maori seeking access to kereru:

Treaty of Waitangi has been modified by acts passed by Parliament in which there are representatives of the Maoris. The Animals Protection Act 1907 makes no distinction between Europeans and Maoris and if the Society takes proceedings the magistrate will probably deal with the matter as if the defendant was a European.

The dilemma presented by Pukekohatu’s case – whether or not to prosecute a Maori claiming a Treaty right to kereru – defined Government policy on native game birds for the next 15 years.³⁶

Cases like Pukekohatu’s became more common after 1910, when an amendment to the Animals Protection Act was passed. The amendment included a landmark clause that created a presumption of protection for all native birds – including those once considered native game. Unless specified, all birds remained absolutely protected. In 1911, the first year under the new proviso, the Government allowed the hunting of kereru. But in 1912, under the direction of the Department of Internal Affairs, kereru remained on the protected list. The department’s decision was not a popular one. Letters and petitions poured into the department from Maori and European alike. Protesters opposed the decision to close the season, and

³⁶ Hapareta Rore Pukekohatu to James Carroll, 11 May 1908, IA 1 1908/1278, NA (DB, pp 28–35)

asked the Government to reconsider, but the department refused to lift the protection on the pigeon and the season remained closed.³⁷

The decision to institute closed seasons in addition to those mandated by law brought the issue of Maori Treaty rights to shoot kereru to a head. Thomas H James, a ranger with the Wanganui Acclimatisation Society, found that Maori in his district routinely ignored the closed season directive, claiming a Treaty right to the birds. James wired the Department of Internal Affairs for clarification on the issue: ‘Have Maoris right under Treaty Waitangi to shoot native pigeons?’³⁸ James received an unhelpful answer: ‘Question you raise re pigeons is a legal one which this Department is not prepared to answer.’³⁹ James immediately wrote to HDBell, the Minister for Internal Affairs, with an indignant reply:

My society hearing of [the department’s telegram] were so disgusted that one and all decided not to worry about prosecuting anyone found shooting pigeon, their argument being that if the Maori could go in dozens through a patch of bush and shoot as many pigeons as they could carry away while the Pakeha is *prohibited* it is such a rotten state of affairs and manifestly unfair towards those sportsmen who desire to uphold the laws of the country. [Emphasis in original.]

James published a similarly indignant letter in the local newspaper, the *Wanganui Herald*. The feeble response to James’s query demonstrated the Government’s inability to deal with the legal and Treaty issues associated with the management of native game.⁴⁰

Despite the confusion, the Department of Internal Affairs continued to keep kereru on the protected list. Every year, the department published a list of native game available for hunting – and every year it left the pigeon off the list. (Table 3 details the status of the kereru season from 1895 to 1922.) Both Pakeha and Maori continued to protest the decision, acclimatisation societies, in particular, complaining about the restricted access to pigeons. Sportsmen and back-block settlers pressured the department to reverse its position, and in 1913 would-be hunters argued that:

Pigeons are very plentiful in the Waimarino district this year and are being shot by the Moaries, Bushmen, Settlers and Poachers yet legitimate sportsmen who observe the ruling of the Minister are prohibited from having a few days shooting in the bush, a pleasure much

³⁷ The Animals Protection Act Amendment Act 1910; *New Zealand Gazette*, 1911, p 1265; *New Zealand Gazette*, 1912, p 1377. For correspondence protesting the closed season, see:

THJames to Minister of Internal Affairs, 18 April 1912, telegram; G W Russell to secretary, Chamber of Commerce, Wanganui, 25 April 1912; A L Henderson to Minister of Internal Affairs, 29 April 1912; HDBell to Dr Pomare, 20 July 1912, IA1 25/75/pt 1, NA

³⁸ Telegram, Thos H James to Minister of Internal Affairs, 4 May 1912, IA1 25/75/pt 1, NA (DB, p 36)

³⁹ Telegram, G W Russell to Thos H James, 4 May 1912, IA1 25/75/pt 1, NA (DB, p 37)

⁴⁰ THJames to HDBell, 16 July 1912; letter to editor, *Wanganui Herald*, not dated, IA1 25/75/pt 1, NA

Year	Season status
1895	Open
1896	Closed, Animals Protection Act 1895
1897–1900	Open
1901	Closed, Animals Protection Act 1900; exemptions for some native districts
1902–03	Open
1904	Closed, Animals Protection Act 1900
1905–06	Open
1907	Closed, Animals Protection Act 1900
1908–09	Open
1910	Closed, Animals Protection Act 1908; exemptions for some native districts
1911	Open
1912	Closed, Internal Affairs directive
1913	Closed, Animals Protection Act 1908
1914–15	Closed, Internal Affairs directive
1916	Closed, Animals Protection Act 1908
1917–18	Closed, Internal Affairs directive
1919	Closed, Animals Protection Act 1908
1920–21	Closed, Internal Affairs directive
1922	Absolutely protected, Animals Protection Act 1921–22

Table 3: The kereru season, 1895–1922

appreciated by those living in the cities and towns. A very large area is being felled and burnt every year in this district and the food is therefore being destroyed and it is only a matter of a few years before the pigeon will be starved out of this district.⁴¹

With the pigeon doomed anyway, hunters wanted the opportunity to kill the birds while they still survived. Maori representatives in Parliament had drawn different conclusions during debates over animals protection legislation, when they asked the Government to stop the destruction of bush. The perceived right of Maori to shoot kereru frustrated many Europeans. ‘I can only say that there is considerable feeling amongst the settlers in the back blocks owing to the fact that the Natives are shooting Pigeons while the whites are by law debarred,’ wrote the secretary of one acclimatisation society in 1914 – even though the Department of Internal Affairs had closed the season for Maori as well as Pakeha.⁴²

Despite the persistent pressure, the season remained closed every year after 1912. In 1917, the Minister for Internal Affairs, G W Russell, explained the department’s position to one acclimatisation society that had pressed for an open season:

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⁴¹ FC Fantham to Department of Internal Affairs, 28 June 1913, IA1 25/12/pt 1, NA

⁴² Secretary, Wanganui Acclimatisation Society, to J Hislop, 4 March 1914, IA1 25/12/pt 1, NA; Francis Henry Dillon Bell, NZPD, 1914, vol 170, p240

Doubtless you are aware that the native pigeon is a bird endemic to New Zealand and it is well known that with the gradual destruction of the bush the native pigeon will eventually become extinct, and in view of this it must, I think be admitted that it is most undesirable to in any way help to facilitate the extinction of this magnificent bird.

Russell echoed a sentiment widely shared by European New Zealanders – that the kereru and other birds would perish as settlers converted bush to farm. Despite this observation, the Government took little action to stop the clearance of land.⁴³

The complaints by European sportsmen demonstrate that many Maori ignored the departmental directive and continued to kill kereru. However, Maori also complained to the Government about the restrictions on their access to the bird. ‘We are bird-hungry,’ one man wrote to member of Parliament Maui Pomare in 1915, ‘that is why we asked whether pigeons (native) could be shot this season. My own opinion is that the Urewera and Taupo people should not be barred from bird-shooting.’⁴⁴ The correspondents reiterated the arguments made by Maori for over 30 years: Maori retained the right to kill kereru on their land, whereas Pakeha had cut down their bush and forfeited that right, and the Treaty of Waitangi guaranteed access rights to the kereru and other native game. Mohi Te Atahikoia included all these positions in a long letter to the Minister of Internal Affairs in 1918:

Friend, I greet you and your colleagues amongst whose duties are included that of prohibiting the shooting of Native birds, such as the Pigeon, the Kaka and the Koko; lest these birds become extinct. The idea seems to be kindly towards the birds; but it should include the prohibition of destroying the bush-trees on fruits of which the birds feed. These trees are being felled by Pakeha and the land is being grassed for the feeding of stock. This is a system of murdering (kohuru) the birds, for their foods are becoming scarcer. Better to kill the birds in the ordinary way, than to thus murder them [by] starvation. It may be right to claim that birds should not be shot on lands which have become Pakeha lands; but, Maoris should be allowed to take their native birds on their own Native lands. It is not that we shoot birds for sale, we do so merely for food. At our Native meetings these were a staple food when the Pakeha first came to this country. So it is that Queen Victoria (Treaty of Waitangi)

⁴³ G W Russell to A F Lowe, 30 May 1917, IA1 25/12/pt 1, NA (DB, p 38)

⁴⁴ Mohi Te Atahikoia to Dr Pomare, 8 June 1915, IA1 25/12/pt 1, NA

expressly declares that the Maoris should be allowed to enjoy their forests and fisheries.

Therefore his prayer to you, that parts of Maori bush still held by us Maoris be open . . . to them for bird-taking. Many Maoris have been caught for shooting birds on their own lands.

Let this law rest lightly on your Maori people in places that they still own the bush.⁴⁵

Other arguments employed in the past resurfaced as well. Maori asked for specific exemptions to collect huahua for hui and ceremonial functions. In a particularly poignant letter, Peter P Noble asked Maui Pomare:

As the forests are being felled so much by the Pakeahas; where are the birds expected to live and thrive? In my opinion the birds will merely die off; just as we Maoris are doing. (In this connection) I would again ask: Are these birds of more consideration than our human Maori selves, who were sent by your Government (to be killed at) the war?⁴⁶

At least one important member of Parliament – a former Minister of Internal Affairs, George Warren Russell – supported Maori in their requests for permission to kill kereru. In 1914, he made a long speech in the House stating his belief that Maori should continue to receive the exemption on pigeon shooting provided for in the Animals Protection Act 1908:

I notice that the minister of Internal Affairs has stated that he intended to allow no native pigeons to be shot in the country. I am not sure that there is power in the law for such a total prohibition as that to be brought about. There is power given in section 26 of the Act 1908 for the Governor, on the recommendation of the Minister, to exclude the Urewera country and other Native districts of New Zealand from the operation of the section dealing with the close season – in other words, allowing the Maoris to shoot every year if the Government thought it desirable to allow that privilege. I may say that some of the districts where pigeons are exceedingly numerous it is felt by the Natives to be a great hardship that even during the close season they should be prevented from securing what is their natural food. Of course, honourable members will know that during the shooting season the Maoris shoot a considerable number . . . I do not think it would lead to the slightest injury to the bird-life of the country if a reasonable amount of shooting were permitted . . .

⁴⁵ Mohi Te Atahikoia to Dr Pomare and Russell, 11 July 1918, IA1 25/12/pt 1, NA (DB, pp 39–40)

⁴⁶ Peter P Noble to Dr Pomare, 27 April 1920; Te Tuhi Pihopa to Dr Pomare, 24 January 1918 IA1 25/12/pt 1, NA

Russell's comments demonstrate that the leading governmental policy makers recognised the reliance of Maori on the kereru as a food source, as well as the continued statutory provisions for Maori hunting of the bird.⁴⁷

The Department of Internal Affairs responded to Maori in the same way they did to Pakeha – by refusing to change the decision on pigeon protection. Officers for the department created a form letter that they routinely sent to Maori requesting permission to hunt kereru:

I have the honour to acknowledge the receipt of the petition of yourself and other natives praying that pigeons may be allowed to be shot in your District.

In reply, I am directed by the Minister to inform you that native pigeons must be protected if they are not to become extinct, and he regrets, therefore, that your request cannot be granted. Surely the Natives do not wish the Kereru to disappear from our land.

Interestingly, George Warren Russell again served as the Minister of Internal Affairs during part of this period. He had reassumed the post in 1915 (one year after speaking in favour of continued exemptions for Maori) and remained the Minister until 1918. The season on kereru stayed closed during Russell's entire tenure. The Department of Internal Affairs had ceased making distinctions between Maori and European. The provision for exempting Urewera and other native districts from closed seasons – still on the books – received no consideration.⁴⁸

For most of the 1910s, the question of Treaty-guaranteed rights to native game for Maori remained unresolved. Maori continued to hunt the bird and, when confronted by acclimatisation society rangers, claimed that the Treaty protected their privilege. The acclimatisation societies and their rangers hesitated to pursue convictions against Maori, uncertain of the legal situation. In 1917, the Auckland Acclimatisation Society sought a resolution to the dilemma. It asked the Department of Internal Affairs for an opinion from the Crown Law Office on the issue, 'to contradict authoritatively a very prevalent idea that because of the Treaty of Waitangi, Maoris can shoot the Pigeon when European sportsmen are debarred doing so'. The society planned to use a favourable opinion to prosecute Maori caught taking kereru.⁴⁹

The president of an acclimatisation society might have written the opinion returned by the Crown Law Office. In a brief report entitled 'Native Pigeons and the Treaty of Waitangi', Crown Solicitor E Redward determined

47 NZPD, 1914, vol 170, p 484

48 GP Newton to Te Amo Kokouri, 3 July 1914, IA1 25/12/pt 1, NA (DB, pp 41–42)

49 Secretary, Auckland Acclimatisation Society to Minister of Internal Affairs, 23 August 1917, IA1 25/12/pt 1, NA

that Maori enjoyed no special access rights to the kereru. ‘The provisions of the Animals Protection Act 1908 are general in their terms and apply to all persons whatsoever,’ explained Redward. ‘There is no exception with respect to Maoris or half-castes and anything contained in the Treaty of Waitangi cannot affect this position. Whatever force or effect that the Treaty may have nothing therein can override the direct provisions of a statute.’ Redward cited a number of recent court cases dealing with closely related issues involving access to fisheries. Indeed, in correspondence over the issue, Maori frequently alluded to their rights to fisheries and birds at the same time. Redward referred to *Waipapakura v Hampton*, where the Supreme Court had decided that Maori had no claim to tidal fisheries because no legislation had given them that right. Redward drew a parallel to the pigeon situation – the legislation provided no general exception for Maori but rather mandated restrictions on access by both Maori and Pakeha. Maori could stake a better claim to fisheries than to birds, argued Redward: ‘The position is stronger against Maoris with regard to native game than it is with regard to fish because “fisheries” are referred to in Article 2 of the Treaty of Waitangi while there is no reference to native game or other food supplies in the Treaty.’ Redward concluded with the reservation that his assessment was not binding on the court, especially ‘in the present confused state of the Animals Protection law’. Despite the disclaimer, the Crown Law Office opinion reinforced the policy that the Department of Internal Affairs had followed for years, and stripped Maori of their claims to access rights to kereru.⁵⁰

The acclimatisation societies wasted little time testing the opinion in court. When a case involving kereru hunting by Maori arose in Taumaranui, the Auckland Acclimatisation Society sent notice of the Crown Law Office’s opinion to the prosecuting sergeant. As expected, the two defendants claimed that the Treaty of Waitangi protected their right to kill kereru and other native game. Armed with the Crown Law opinion, the court fined the hunters for violating the Animals Protection Act. Officers for the Auckland Acclimatisation Society proclaimed to the Minister of Internal Affairs: ‘Our Rangers will accordingly have satisfactory [grounds] for upsetting any such Maori pleas in the future.’⁵¹ Confusion over Treaty issues in bird protection persisted, however. For example, the secretary of the Wanganui Acclimatisation Society explained to Internal Affairs officials in 1919 that the society could not risk its limited funds

⁵⁰ E Redward, ‘Native Pigeons and the Treaty of Waitangi’, 27 September 1917, IA1 25/12/pt 1, NA, (DB, pp 43–45)

⁵¹ P Stuart to Minister of Internal Affairs, 10 October 1917, IA1 25/12/pt 1, NA

prosecuting Maori for pigeon shooting because of the uncertain prospects of conviction:

We prosecute whenever we know for certain the law is being broken, but until we get the assurance of the Government's Solicitor in writing that 'notwithstanding the terms of the Treaty of Waitangi the *Maori* is creating a breach of the Animals Protection Act in shooting the native pigeon' . . . we do not feel disposed to risk proceedings . . .⁵²

The Wanganui society must not have known of the Crown Law Office's opinion. But with the backing of Crown Law, Internal Affairs could assure acclimatisation societies that it was illegal for both Maori and Europeans to kill kereru. (The enforcement of the Animals Protection Act and the conservation of kereru will be discussed in the next chapter.)

In 1922, a new version of the Animals Protection Act stripped Maori of their last claims for access to kereru. The new Act listed the kereru as an 'absolutely protected species' and prohibited all taking of kereru (and most other native birds) at any time of the year, except with special permission from the Governor. 'While it is true that the bush is disappearing, and that the birds are disappearing in consequence, it is not considered desirable that the Government should help to hasten their destruction,' the Minister of Internal Affairs, William Downie Stewart, had explained on the introduction of the Bill. Legislators strengthened the protective clauses for kereru dealing with hunting, but they consistently refused to act on what Maori claimed to be the root cause of the decline in kereru populations – the destruction of the bush. The new version of the Act omitted any provision for the exemption of the Urewera and other Maori districts. As if to demonstrate the intention to ensure that the Act applied to Maori as well as Pakeha, the schedule listed as protected 'Pigeon (kereru)' – the first time that the Maori name for the bird had appeared in the legislation. 'Can you compel the Maoris to comply with the Act?' inquired one member of Parliament during the debates over the Act. Downie Stewart's reply outlined the Government's position on kereru hunting, which has persisted from 1910 to the present day: 'I do not know whether we can compel them or not, but this is the Act as it stands, and it applies to Maoris.' The Maori members of Parliament made no comment on the new law.⁵³

Between 1895 and 1921, the Government gradually eroded Maori access to kereru. First, the Government instituted statutory closed seasons.

⁵² T H James to J Hislop, 25 June 1919, IA1 25/12/pt 1, NA

⁵³ NZPD, 1921, vol 191, p 376; the Animals Protection and Game Act 1921–1922

Although the animals protection legislation allowed it to grant an exemption to the closed seasons in Maori districts, the Crown granted such an exemption only twice, in 1901 and 1910. During the first decade of the twentieth century, a series of amendments to the legislation further restricted the manner in which Maori could kill the bird by specifying closed seasons and outlawing the use of snares to catch birds. The Government completed the alienation of Maori rights to kereru in the second decade of the century. The Department of Internal Affairs implemented a policy that denied Maori special access to the bird and disallowed claims that the Treaty of Waitangi guaranteed hunting rights. A final amendment to the Animals Protection Act, in 1922, banned all hunting of kereru and completed the process of alienation that began in 1895. The question of how to enforce the prohibition on the hunting of kereru created a whole new set of problems for Internal Affairs, however, and Maori hunting of kereru did not end in 1922.